

01- *R* -1255

Entered - 11-20-00- sb
CL - 00L0705 ALEXIS HOLMES

CLAIM OF: **JANICE MCCORMACK SELLARS**
AS GUARDIAN OF JASON SELLARS
Through their attorney
Richard T. Taylor
Taylor & Viers, P.C.
3025 Piedmont Road, NE
Suite 310
Atlanta, Georgia 30305-2636

For damages alleged to have been sustained as a result of being
struck by a vehicle on April 10, 1999 at 3179 Peachtree Road, NE.

THIS ADVERSE REPORT IS APPROVED

BY: *Rosalind Rubens Newell*
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

ADVERSE BY
CITY COUNCIL SEP 04 2001

ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

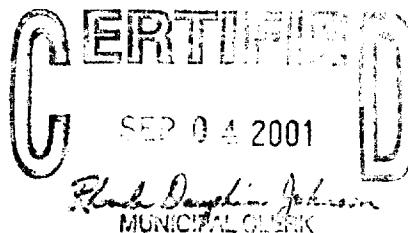
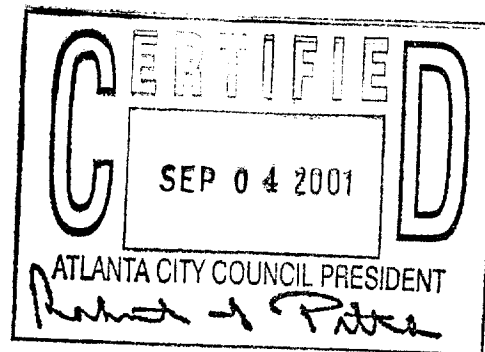
DATE: **SEP 04 2001**

CHAIR: *C. T. Marks*

[Signature]

[Signature]

Chela Henslow





OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103

September 12, 2001

Richard T. Taylor
Attorney at Law
3025 Piedmont Road, NE
Suite 310
Atlanta, Georgia 30305-2656

01-R-1255

RE: Janice McCormack Sellars as guardian
of Jason Sellars

Dear Attorney Taylor:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on September 04, 2001. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the City Attorney's Office/Claims Division at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0705

Date: 8/2/01

Claimant /Victim JANICE MCCORMACK SELLARS AND JASON SELLARS

BY: (Atty) Richard T. Taylor

Address: Taylor & Viers, P.C 3025 Piedmont Road, NE Suite 310 Atlanta, GA 30305-2635

Subrogation: Claim for Property damage \$ Bodily Injury \$ 5,000,000

Date of Notice: 11/9/00 Method: Written, proper X Improper X

Conforms to Notice: O.C.G.A. §36-33-5 Ante Litem (6 Mo.)

Date of Occurrence 4/10/99 Place: 3179 Peachtree Road, N.E.

Department Public Works Division: Traffic and Transportation

Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant Jason Sellars alleges that he was attempting to cross the street when he was struck by a vehicle and incurred severe traumatic brain damage. However, the claimants failed to comply with the requirement of notice as set forth in O.C.G.A. § 36-33-5, the six month limitations expired prior to receipt of the claim.

INVESTIGATION:

Statements: City employee Claimant Other X Written X Oral

Pictures Diagrams Reports: Police Dept Report Other

Traffic citations issued: City Driver Claimant Driver

Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial X

Improper Notice More than Six Months X Other X Damages reasonable

City not involved Offer rejected Compromise settlement

Repair/replacement by Ins. Co. Repair/replacement by City Forces

Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,


INVESTIGATOR - ALEXIS HOLMES

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01

Claims Manager: Concur/date 08-02-01

Committee Action: Council Action

Dear Mr. Pitts:

TAYLOR & VIER, P.C.

ATTORNEYS AT LAW

3025 PIEDMONT ROAD, NE

SUITE 310

ATLANTA, GEORGIA 30305-2635

Holmes
11/17/00

RICHARD T. TAYLOR
RAYE ANN VIER

November 7, 2000

404 365-9922
FACSIMILE 404 237-4080
E-MAIL taylorvier@aol.com

ENTERED - 11-20-00 - SB
00L0705 - ALEXIS HOLMES

VIA OVERNIGHT MAIL
U.P.S. TRACKING NO. N238 7931 42 4

Atlanta City Council
City of Atlanta
Attention: Mr. Robert L. Pitts, President of Council
55 Trinity Avenue, Suite 2900
Atlanta, Georgia 30335

Dear Mr. Pitts:

This letter is sent pursuant to the provisions of O.C.G.A. §36-33-5. I represent Janice McCormack Sellars and Jason Sellars. Ms. Sellars was appointed by the Probate Court of Morgan county as the guardian of Jason Sellars, an incapacitated adult.

On April 10, 1999 at approximately 4:00 a.m., Jason Sellars was a pedestrian attempting to cross Peachtree Road in the Buckhead area near 3179 Peachtree Road, N.E., Atlanta, Georgia. Mr. Sellars was struck by a vehicle operated by Eiren Anne Steel and was severely injured. Mr. Sellars' injuries include a severe traumatic brain injury from which he has never recovered and which has incapacitated him. Mr. Sellars remains under the care of physicians and health providers because of his injuries. He is unable to care for himself at all and is disabled.

The injuries sustained by Mr. Sellars were in part the result of the negligent acts and omissions of the City of Atlanta and the maintaining of a nuisance by the City of Atlanta in the following particulars: by failing to provide adequate lighting and cross walks on the roadway; by failing to impose a low-speed limit for vehicular traffic through the entertainment district; by failing to adequately control the crowd in the district; by failing to close streets through the Buckhead entertainment area or to divert traffic from areas utilized by pedestrians; and by failing to provide for traffic and pedestrian flow by the use of traffic control devices so as to avoid contact between the two groups of users of the streets.

The City of Atlanta possessed knowledge of these conditions by virtue of prior traffic accidents involving pedestrians as well as from public complaints and its own studies. These conditions were continuously and repetitively maintained by the City.

City of Atlanta
Attention: Mr. Robert L. Pitts, President of Council
November 7, 2000
Page Two

This notice is timely sent by virtue of the fact that Mr. Sellars has been an incapacitated individual from the date of the incident through the present. On May 9, 2000 Ms. Sellars, his mother, was appointed as his guardian, and the time period for the sending of the *ante litem* notice was tolled while he and his estate was unrepresented.

I am enclosing an itemization of medical expenses incurred on behalf of Mr. Sellars. I am also enclosing copies of the Probate Court documents including the evaluation of the physician who evaluated Mr. Sellars as well as the Order of the Probate Court approving Ms. Sellars as the *Guardian Ad Litem*. Finally, I am enclosing a copy of the police report describing the incident.

This claim for money damages is submitted to the City of Atlanta for adjustment and payment. Settlement is demanded in the amount of \$5,000,000.00. I await the City's response.

Yours truly,

A handwritten signature in cursive script, appearing to read "Richard T. Taylor".

Richard T. Taylor

Enclosures
RTT/dlm

01- R-1255

RCS# 3092
9/04/01
3:36 PM

Atlanta City Council

Regular Session

MULTIPLE

1255

Public Safety Consent Agenda except #15

ADOPT

YEAS: 15
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 0

Y McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
Y Winslow	Y Muller	Y Boazman	NV Pitts

MULTIPLE